

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

HERIBERTO CHACON  
TX-1337458-L

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DOCKETED COMPLAINT NO. 09-229

**AGREED FINAL ORDER**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the licensure of Heriberto Chacon (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Heriberto Chacon neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent, Heriberto Chacon is a state licensed real estate appraiser, holds license number TX-1337458-L and has been licensed by the Board during all times material to this complaint.

2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.

3. On or about January 15<sup>th</sup>, 2008, the Respondent appraised real property located at 3017 Erica Street, El Paso, Texas 79925 ("the property").

4. On or about June 8<sup>th</sup>, 2009, the Complainant, Deloris L. Kraft-Longoria, filed a staff-initiated complaint with the Board based on allegations that the Respondent had produced an appraisal report that contained various deficiencies.

5. On or about February 25<sup>th</sup>, 2010, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of the nature and accusations involved and Respondent was afforded

an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.5535 and 5545, 22 TEX. ADMIN. CODE §§ 153.20(a)(3); 153.20(a)(9); 153.33(a); 153.37(a); and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent failed to comply with the record-keeping provisions of the Ethics Rule by failing to maintain in his work file the documentation necessary to support his analyses, opinions and conclusions;
- b) Respondent failed to provide a definition of value and its source;
- c) Respondent failed to properly identify the problem to be addressed and have the knowledge and experience to complete the appraisal assignment competently or disclose the lack of experience, become competent and then describe the steps taken to obtain knowledge.
- d) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;
- e) Respondent failed to provide a summary of his basis and underlying rationale for his determination of the property's highest and best use;
- f) Respondent failed to provide support for his site value determination, failed to collect, verify, analyze and reconcile the cost of new improvements and accrued depreciations and failed to employ recognized methods and techniques in his cost approach;
- g) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
- h) Respondent failed to collect, verify, analyze and reconcile comparable rental data for subject rent and/or the potential earnings capacity of the property to estimate the gross income potential of the subject and failed to collect, verify, analyze and reconcile comparable operating expenses;
- i) Respondent failed to base projections of future rent or income potential and expenses on reasonable, clear and appropriate evidence and generally failed to employ recognized methods and techniques in his income approach;
- j) Respondent failed to analyze the agreement of sale for the property; and,
- k) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent has omitted material facts in his appraisal report as detailed above.

## **CONCLUSIONS OF LAW**

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.5535 & 5545, and 22 TEX. ADMIN. CODE §§ 153.20(a)(3); 153.20(a)(9); 153.33(a); 153.37(a); and 155.1(a): USPAP Ethics Rule (record keeping provisions); USPAP Standards: 1-2(c) & 2-2(b)(v); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-4(c)(i) & 2-2(b)(viii); 1-4(c)(ii) & 2-2(b)(viii); 1-4(c)(iv) & 2-2(b)(viii); 1-1(a) & 1-4(c); 1-5(a) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a);

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts from his appraisal report.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- 1) Attend and complete a minimum, 15 classroom-hour course in USPAP;
- 2) Attend and complete a minimum, 15 classroom-hour course in the Cost Approach or the Income Approach;
- 3) Attend and complete a minimum, 7 classroom-hour course in Valuation by Comparison: Residential Analysis and Logic;
  - (i) No examination shall be required for this course; and;
- 4) Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

**ANY SUCH SUSPENSION** SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.


Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

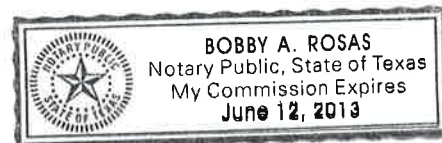
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 14 day of October, 2010.

  
HERIBERTO CHACON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 14th day of October, 2010, by HERIBERTO CHACON, to certify which, witness my hand and official seal.

  
Notary Public Signature  
Bobby Rosas  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 17th day of NOVEMBER, 2010.

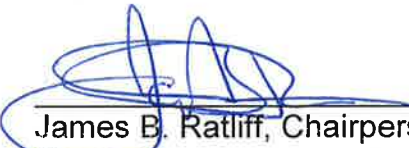


Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 19 day of NOV, 2010.

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 19 day of NOV, 2010.

  
James B. Ratliff, Chairperson  
Texas Appraiser Licensing and Certification Board